

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

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:
UNITED STATES OF AMERICA, :
:
Plaintiff, :
:
v. : Case No.
: 2:12-CV-804-LDG-GWF
CLIVEN D. BUNDY, :
:
Defendant :
:
-----x

333 Las Vegas Boulevard, South
Las Vegas, Nevada

Tuesday, October 23, 2011

Deposition of:

CLIVEN D. BUNDY

a witness, called for examination by counsel for the
Plaintiff, pursuant to notice and agreement as to time and
place, at the United States Attorney's Office, Las Vegas,
Nevada, before Sandy A. Dahlheimer, a Notary Public, where
were present on behalf of the respective parties:

A P P E A R A N C E SOn Behalf of the Plaintiff:

TERRY M. PETRIE, ESQ.
United States Department of Justice
Environment and Natural Resources Division
Natural Resources Section
999 18th Street, South Terrace
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NANCY C. ZAHEDI, ESQ.
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Department of the Interior
Office of the Solicitor
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ALICE C. NEWTON
Lake Mead National Recreation Area
601 Nevada Way
Boulder City, Nevada 89005

LAUREN BROWN
Bureau of Land Management
4701 North Torrey Pines Drive
Las Vegas, Nevada 89130

On Behalf of the Defendant:

CLIVEN D. BUNDY, IN PRO PER
Post Office Box 7175
Bunkerville, Nevada 89007
702-346-5564

Also Present: Carol Bundy

1 Do you see that, sir?

2 A. Yes, I understand it.

3 Q. Sir, you've seen this document before?

4 A. Yes, I have.

5 Q. Thank you. Sir, that's just simply to establish
6 we're having a deposition today and here's the document
7 that lined it up.

8 Sir, have you ever been deposed before in a
9 proceeding like this?

10 A. One other time. Yes, I have.

11 Q. When was that?

12 A. It's been several years dealing with a Department
13 of Transportation, State of Nevada.

14 Q. Anything to do with cattle?

15 A. Yeah, it was.

16 Q. Can you tell us what that was about?

17 A. We had cattle get hit on the freeway, and I was
18 in there giving deposition on that case.

19 Q. Was this a case brought by the Department of
20 Transportation?

21 A. No. I was with them. They sued -- or State of
22 Nevada, I guess, and it was my cattle involved so they sued
23 me also, and there was a contractor involved. They sued
24 them so there's a three-way suit with a private, you know,
25 party suing.

1 Q. I understand. So the "they" that you're
2 mentioning are the people whose car hit the cattle?

3 A. Yes.

4 Q. Was this like in a local State Court or District
5 Court?

6 A. State Court. It was a case, which in the freeway
7 fence, you know, we have the open range laws, but this was
8 inside the freeway fence so they had a case against the
9 State because of, you know, maintenance or our gate wasn't
10 closed -- that type of thing.

11 Q. About where was this accident? About where did
12 it happen?

13 A. Probably about mile marker 115, I-15 North.

14 Q. Okay. This was several years ago?

15 A. Yeah. I don't know. At least over ten years ago
16 probably.

17 Q. Any other depositions, sir?

18 A. That's the only one.

19 Q. I've been deposed myself so it's quite an
20 experience.

21 Sir, let me go through a couple of basics about
22 this deposition. First, in a big general way, I want to
23 talk to you about your cattle operations as a general
24 subject.

25 When I ask you questions, if you don't understand

1 A. No.

2 Q. Since the year 2000 -- my question is going to
3 focus from the year 2000 through today -- have you grazed
4 your cattle on lands both inside the former Bunkerville
5 Allotment, which you now have characterized here today as
6 your ranch, as well as lands outside of the Bunkerville
7 Allotment outside your ranch?

8 A. Yes.

9 Q. Has that been done routinely over the course of
10 those now 12 years?

11 A. Yes.

12 Q. When you graze your cattle, is there some kind of
13 a system or methodology that you use with it? In other
14 words, is it like a continuous grazing operation that you
15 have out there?

16 A. Yes.

17 Q. Year round basically?

18 A. Yes.

19 Q. What I'm going to do here, sir -- let's go off
20 the record.

21 (Off the record.)

22 (On the record.)

23 BY MR. PETRIE:

24 Q. What I'm going to do, sir, is hand you a map that
25 we'll mark as Exhibit 4 that was prepared for this case.

1 questions up to this point, if I might express, you know,
2 you asked me if I run cattle on the Bunkerville -- old
3 Bunkerville Allotment, and you asked if I run cattle on the
4 new trespass land, and my answer is yes; then you hand me a
5 map that is a lot broader in my thinking that I had cattle
6 so there's a problem there. In other words, I answered the
7 question before I seen the map. Make that part of the
8 record.

9 Q. That's a good point, and I appreciate that. I
10 have an appreciation for that, and indeed where I'd like to
11 go next -- and I apologize because I can tell as an aside
12 from your manner, your demeanor, that you feel a little
13 perturbed like maybe I mislead you. And I apologize
14 because that certainly was not my intent.

15 What I'd like to do next is what I'd like you to
16 do is to mark on this map certain things. Okay. To
17 include your understanding of where you ran your cattle,
18 that sort of thing. Okay? So that, for example, the map
19 here is not meant to suggest -- and let's just use this as
20 an example of my point -- if you take a look at the map,
21 sir, that we have marked, sir, as Exhibit 4.

22 You see -- if you take a look at where I-15 as it
23 works its way northeast from Las Vegas how it eventually
24 intersects into the portion of the map where you see the
25 new trespass lands being denoted with the hash marks and

1 A. It's all right. I think I'll be able to --

2 Q. What we might do is if I could ask somebody to go
3 to the main office --

4 A. I've got it good enough. We'll scratch it on
5 there.

6 Q. We really want it -- if you could indulge me here
7 for a moment, sir, and we'll go off the record. We'll have
8 hopefully a better marker device and ask you to just
9 retrace it so it's clear to anybody that looks at it
10 they'll be able to figure out what you drew there.

11 A. Yes, I'll do that.

12 MR. PETRIE: We can go ahead and go off the
13 record.

14 (Off the record.)

15 (On the record.)

16 BY MR. PETRIE:

17 Q. Mr. Bundy, we're back on the record. And during
18 the break, we took steps to address a failing on my part.

19 Lawyer 101 says you have markers that make
20 bright, delible marks that are easy for all to see; and the
21 original instrument we used, a red ink pen, was not up to
22 the task.

23 So what we've done is over that red ink line and
24 we have asked you and you have retraced that red line with
25 a black Magic Marker; is that correct, sir?

1 A. Yes.

2 Q. And, again, just for the record here so that it's
3 clear, those black lines represent by your understanding
4 the outer limits of where your cattle have grazed?

5 A. Yes.

6 Q. I'm going to hand you, sir, another document.
7 We'll have this marked as Exhibit 7.

8 (Whereupon, Exhibit 7 was marked for
9 identification.)

10 BY MR. PETRIE:

11 Q. I think this will look familiar to you.

12 A. Well, I got interested in reading, I guess.

13 Q. Sir, do you recognize this document?

14 A. Well, let me go through it a little bit more.

15 Q. Sure.

16 A. Okay. I recognize at least part of it.

17 Q. Sir, I'm focused specifically on the first page.
18 Sir, does this document appear to be information contained
19 on a blog spot that's titled bundyranch.blogspot.com?

20 A. Yes.

21 Q. Sir, on the first page of this exhibit, there's
22 an entry that's dated May 12, 2012. Do you see that?

23 A. Yes.

24 Q. And at the bottom of that entry appears to be
25 your name, Cliven D. Bundy.

1 A. Right.

2 Q. Where is the Gold Butte headquarters located?

3 And let's go ahead and mark it again on this map. We'll
4 use the black marker and we'll just use HQ to denote that.

5 A. This thing turned round right here. HQ?

6 Q. Yes, sir.

7 A. (Witness complies.)

8 Q. Thank you. And this appears to be located in
9 what would be the southeast corner of the area that you
10 previously marked for the outer limits for where you
11 understand your cattle have grazed; is that correct, sir?

12 A. Yes.

13 Q. And that appears to be a portion of the map,
14 which the Government contends is new trespass lands?

15 A. Yes.

16 Q. Thank you.

17 Speaking of the cattle that were grazing, sir, we
18 talked earlier about how your ranch has employed the use of
19 brand marks and earmarks, brands and earmarks; is that
20 right, sir?

21 A. Yes.

22 Q. Okay. Some of the cattle that you have grazed,
23 are they unbranded?

24 A. Yes.

25 Q. About what percentage, if you've got a sense of

1 that?

2 A. On the knoll -- new trespass land, I would just
3 estimate -- you wanted to know about the branded or
4 nonbranded now?

5 Q. Nonbranded.

6 A. I would say approximately 40 percent of them are
7 nonbranded.

8 Q. If -- don't laugh at this question because it's
9 probably got a very logical answer, but you're fielding a
10 question from a guy who does not run cattle. For somebody
11 like Petrie, he goes out there and he comes across one of
12 your unbranded cattle. Is there anything about the cow
13 that would tell Petrie that, yes, this cow belongs to
14 Cliven Bundy?

15 A. Two things, the genetic of the animal and the
16 herd it was running with.

17 Q. The latter suggesting that, if an unbranded cow
18 is in the presence of other Bundy marked cattle, there is
19 pretty good odds it's also a Bundy cow?

20 A. Yes.

21 Q. I wasn't clear on that and I appreciate you're
22 educating me.

23 Sir, and this will revisit an item we were
24 discussing earlier, but specifically to the new trespass
25 lands, do you have any kind of fee title to any of those

1 Nevada statute's saying that State of Nevada has as it says
2 in NRS 321.596 that the State of Nevada has a strong moral
3 claim to the land?

4 A. A strong moral claim?

5 Q. Yeah. If you actually read the first statute in
6 that citation, but aside from the strong moral claim
7 language, I understand that you're saying the effect of
8 that statute allows you to use, but it's not the same thing
9 as a lease; is it?

10 A. No, it's not. But it is a form of a lease, I
11 guess, if I have the rights.

12 Q. Form of an authorization to use it?

13 A. Yes.

14 Q. But it's just not the typical lease?

15 A. No, it's not a typical lease between you and me.

16 Q. Okay. I get what you're saying there and I
17 appreciate that.

18 Sir, do you -- and, again, it's the same line of
19 questions here -- do you have any authorization from BLM to
20 use any of the new trespass lands that the Government, BLM,
21 administers on behalf of the United States recognizing that
22 you dispute the ownership of it but nonetheless BLM does
23 carry out activities to administer some of the lands
24 located within the new trespass? Do you have any kind of
25 authorization from them?

1 A. No.

2 Q. How about -- the same question but from the
3 vantage point of Nation Park Services. Do you have any
4 kind of authorization from National Park Service?

5 A. No.

6 Q. Okay. Let's just take a quick break.

7 (Off the record.)

8 (On the record.)

9 BY MR. PETRIE:

10 Q. Sir, are you aware that the Federal Government
11 has designated certain portions of the lands out there in
12 the Gold Butte area as lands where it has designated
13 habitat for different species to be protected under the
14 Endangered Species Act such as the desert tortoise and the
15 southwestern willow fly catcher? Are you aware of that?

16 A. Yes.

17 Q. Sir, do you have any understanding about whether
18 or not your cattle in the course of their grazing have
19 sometimes damaged the vegetation and the habitat for these
20 different species?

21 A. No.

22 Q. Are you aware that your cattle have sometimes
23 eaten newly planted vegetation in areas, which are trying
24 to restore the land, the vegetation on it?

25 A. No.

1 A. Could be.

2 Q. Okay. How about 20?

3 A. Could be.

4 Q. 30?

5 A. Could be.

6 Q. How about 50?

7 A. Could be.

8 Q. Okay. At what point would you say definitely no,
9 I don't have 100, or I don't have 200? Any sense of that?

10 A. Well, I probably have near 100 range improvements
11 on that land.

12 Q. So that we're clear, when you say "that land," is
13 that the former Bunkerville?

14 A. Yes, the Bundy ranch.

15 Q. Okay. How about same line of questions? I'm
16 just trying to get a sense of the number for range
17 improvements in what the government characterizes as new
18 trespass lands.

19 A. I have none.

20 Q. None? Okay.

21 A. Let me clarify some things that have happened
22 there that I've had something to do with. For example, if
23 there's a waterline broke or a water not getting into the
24 water trough, if I go there, I fix that waterline and put
25 it in the trough if I can do it. There's been a couple of

1 occasions where I've done that kind of improvement or
2 maintenance, either way you want to call it; and I do that
3 for two purposes. I do it for more than two purposes.

4 One, I do it because it does benefit any
5 livestock or wildlife that's in the area. It's a safety
6 thing for a human to come along there with a broken car or
7 something and needs a drink, and it's a waste of a resource
8 if I can do some kind of improvement. I'll move a rock or
9 two or build a dam or put a pipeline together all the time,
10 even if it's on new trespass land.

11 Q. I understand. Then the waterlines that you're
12 referring to, are sometimes those waterlines in pipes?

13 A. Yes.

14 Q. And you've repaired pipes that were burst or
15 broken or cracked out there in the new trespass land?

16 A. Maybe one or two in the sense of fixing it,
17 putting it into the trough and making sure the water is not
18 wasted. No type of major maintenance on a waterline have I
19 ever done in the new trespass lands.

20 Q. Do you have any understanding as to who placed
21 the water trough or the water pipeline?

22 A. Only that the prior ranch owners did that.

23 Q. Do you have any understanding about whether or
24 not the pipeline or water troughs that you have come across
25 in the new trespass lands were placed there initially for

1 livestock purposes or for any other purpose? Do you have
2 any sense of that?

3 A. It was for livestock and wildlife.

4 Q. I'm not doubting you when I ask this. What's the
5 basis for your understanding that it was placed there
6 initially for those purposes?

7 A. The benefit of wildlife and cattle.

8 Q. I'm asking how it is that you know that? Is it
9 because the person who placed it there told it to you, for
10 example, or is it just common sense that tells you that out
11 here in the middle of nowhere it's got to be for that
12 reason?

13 A. No. Your question is partly yes. That's part of
14 the reason, but the other part is that I've witnessed
15 livestock and wildlife using those things, and I know that
16 they've been improved by man, which I assume the rancher is
17 the man that improved that. The new trespass land mainly
18 talks about the Gold Butte area now, not Gold Butte area
19 but Gold Butte.

20 We're talking about one hundred plus years of
21 range improvements on that that are still existing.
22 They're still there, and so the pipelines, the head houses,
23 the troughs, the trails -- all those things still exist
24 upon that land even though there's not a rancher there.

25 Q. Okay. Do you have any authorization from BLM or

1 from NPS for any range improvements since the year 2000 out
2 in the former Bunkerville Allotment?

3 A. No.

4 Q. How about same question since the year 2000, but
5 in this instance for the new trespass lands?

6 A. No. I could back up a little bit.

7 Q. If you need to, please do.

8 A. Just on temporary use of say trails, say
9 temporary trails, the Park Service has okayed that type of
10 action, and I really don't have anything in writing, but
11 they've provided me with a lock and key to get into their
12 property and to do those kind of things. And we have put
13 up a temporary trail and fences and then basically took
14 them down when they're through. So in other words, I have
15 done some of that kind of work on that land.

16 Q. Have you placed salt licks on the new trespass
17 land?

18 A. Yes.

19 Q. How about placing hay on the new trespass land?

20 A. Only for trapping.

21 Q. Trapping --

22 A. Trapping cattle. In other words, try to gather
23 those cattle off that land.

24 Q. Have you -- I think you answered this earlier so
25 I apologize if I'm being redundant. In the new trespass

1 help orient you, I'm going to show you a map that's a USGS
2 map, and it says BLM 2005 Nevada, Lake Mead, and the scale
3 is 1 to 100,000.

4 And what I'm going to do is show you a place on
5 this map that's marked as Mockingbird Spring. You see
6 that, sir?

7 A. Okay.

8 Q. And then in conjunction with where that's
9 located, if you can then take a look at Exhibit 4 and get
10 an idea roughly from comparing the two maps where
11 Mockingbird Spring would be --

12 A. This is what we call headquarters right here.

13 Q. Yes, sir.

14 A. And Mockingbird Spring -- I don't know where it
15 is so show me.

16 Q. It's right here, sir. It's to the west of what
17 you called headquarters, Mockingbird Spring.

18 Do you see the entry here on the USGS map?

19 A. Okay. I can see it. I never know that was
20 Mockingbird Spring, but now Quail is a little more
21 familiar.

22 Q. Quail Spring, yes.

23 A. Okay. Ask me what you want to know.

24 Q. Well, the question I had was whether or not you
25 have used a corral at the Mockingbird Spring site?

1 A. Definitely, no. If somebody's used a corral,
2 then it must be somebody stealing my cows.

3 Q. Do you know if -- and I phrased the question in
4 the context of you using a corral. Do you know if there's
5 a corral there even if you haven't used it?

6 A. No, I don't believe -- in my way of looking at
7 this map, there's no corral there. Let me see. Well,
8 Quail, Spring Quail Wash. I know where that is. Quail
9 Spring.

10 You know, I don't know -- if that's Mockingbird
11 in the way I'm looking at this, I might have to take that
12 statement back. I don't know what the name of it was, but
13 yes, I have trapped some cattle or attempted to trap cattle
14 there. And if I'm looking at this at Quail Spring Wash, I
15 know where that is, and I know there's a good corral there.
16 So I would assume that that's probably a corral that I have
17 used. I mean, I think I probably used it one time and in
18 the last say several years to try to trap some cattle
19 there.

20 Q. And so there, as you think further, that perhaps
21 indeed there is a corral there that was used?

22 A. Yeah, I think so. Yes.

23 Q. Any idea who put that corral there in the first
24 place?

25 A. Well, it's prior ranchers. I don't know whether

1 Now, let's go back to the question. Let's assume
2 the federal authorities have the authorization to present
3 themselves on land, whether you call it your ranch or the
4 former Bunkerville Allotment, or for that matter the new
5 trespass lands, and they've got the authorization in hand
6 to remove cattle that belongs to you and they literally,
7 physically, take the steps necessary to accomplish that
8 right there and you're standing by.

9 Are you going to undertake any effort to
10 physically stop that?

11 A. Yes.

12 Q. What efforts would that be?

13 A. Whatever it takes.

14 Q. Okay. Would that include -- when you say
15 "whatever it takes," would that include the soliciting, the
16 assistance of neighbors, friends, family, supporters of
17 yours to do whatever it takes in the scenario I just
18 described?

19 A. Yes.

20 Q. Whatever it takes -- well, no. Okay.

21 Sir, as you know, there was an earlier
22 proceeding, an earlier case, that the United States brought
23 against you back in the late '90s, 1998, 1999.

24 Do you recall that the Court issued an order for
25 you to remove your cattle that the Court determined were

1 trespassing on the lands that we call the former
2 Bunkerville Allotment and which you now call the Bundy
3 ranch? Do you recall that?

4 A. Yes.

5 Q. You never removed your cattle, did you?

6 A. Right.

7 Q. Sir, one last question here and we'll let you and
8 your wife get on with your day. After that topic, whatever
9 it takes, this is going to be a tame ending.

10 If you would take a look at the answer that you
11 filed in this case -- and I don't think I have it marked as
12 an exhibit, and I'll do that right now and we'll mark it as
13 Exhibit 12. It's the answer that you filed in this case.

14 (Whereupon, Exhibit 12 was marked for
15 identification.)

16 BY MR. PETRIE:

17 Q. Sir, does that document look familiar to you?

18 A. Yes, I'm familiar with it.

19 Q. It's the answer that you filed in this Court in
20 response to the Government's complaint, and your answer was
21 filed on June 4, 2012.

22 Sir, on page 3, if you would, if you'd take a
23 look at that on page 3, and this touches on something that
24 at least tangentially we addressed earlier, but there's
25 another phrase in here I wanted to ask you about.